

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION No.310 of 2023 (D.B.)

Sudhakar Vithobaji Bobade,
Aged about 71 years, Occ.: Retired,
R/o. At Vitthalwadi, Post Jodmoha, Taluka & District Yavatmal.

Applicant.

Versus

- 1) State of Maharashtra,
Through its Additional Chief Secretary,
Tribal Development Department, Mantralaya,
Mumbai-400 032.
- 2) The Commissioner,
Tribal Development Department,
Maharashtra State, Adivasi Vikas Bhavan,
Gadkari Chowk, Nashik-2.
- 3) Additional Commissioner,
Tribal Development Department,
Giripeth, Opp. R.T.O., Nagpur.
- 4) Project Officer,
Integrated Tribal Development Project,
Aheri, District Gadchiroli.
- 5) Project Officer,
Integrated Tribal Development Project,
Giripeth, Opp. R.T.O., Nagpur.
- 6) The Regional Divisional Enquiry Officer,
Nagpur Division, 1st floor, Room No.86,
Civil Lines, Nagpur.

Respondents.

Shri R.M. Fating, Advocate for the applicant.
Shri A.M. Khadatkhar, learned P.O. for respondents.

**Coram :- Hon'ble Shri Justice M.G. Giratkar,
Vice Chairman.**

Dated :- 13/02/2024.

JUDGMENT

Heard Shri R.M. Fating, learned counsel for the applicant and Shri A.M. Khadatkhar, learned P.O. for the respondents.

2. As per the M.A.T., Principal Bench, Mumbai office order / letter No.MAT/MUM/JUD/1350/2023, dated 21/11/2023, the Hon'ble Chairperson, M.A.T., Principal Bench, Mumbai has given direction to this Tribunal to decide the Division Bench matters if the matter is covered by the Judgments of Hon'ble Supreme Court, Hon'ble High Court and the Benches of the M.A.T. etc.

3. As per the submission of learned counsel for the applicant, this O.A. is covered by the Judgment of the Hon'ble Supreme Court in the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano., decided on 16 December, 2015** in Civil Appeal No. 958 of 2010 and the **State of Madhya Pradesh & Ano. Vs. Akhilesh Jha & Ano. (2021) in Civil Appeal No.5153/2021, decided on September 6, 2021**. Hence, the matter is heard and decided finally with the consent of learned counsel for both the parties.

4. The case of the applicant in short is as under –

The applicant was appointed on the post of Probation Officer in Social Welfare Department on 14/12/1977. Thereafter, the applicant came to be appointed on the post of Assistant Project Officer, Tribal Development Department, by way of direct recruitment,

through M.P.S.C. on 31/05/1994. The applicant came to be promoted on 01/11/2006 on the post of Project Officer, Integrated Tribal Development Project, Aheri, District Gadchiroli vide order 19/10/2006. Accordingly, the applicant joined on the aforesaid post. On 12/05/2008 while the applicant was working as a Project Officer, Aheri, he came to be suspended mainly for the reason of improper implementation of the scheme of Kanyadan Yojana and purchase of firewood for Ashram Schools. Thereafter, the applicant was served with a charge sheet on 26/11/2008. The respondents have initiated departmental enquiry since 2008. The applicant is retired in the year 2010, but still the departmental enquiry is going on. Hence, the applicant approached to this Tribunal for the following reliefs –

“(11) (i) Stay the effect, operation and execution of departmental proceedings, bearing Departmental Enquiry Case No.04/19, pending at Respondent No.6 office based on impugned Charge sheet dated 26.11.2008 issued by the Respondent No.1;

(ii) Direct the Respondents to stop further departmental proceedings in Departmental Enquiry Case No.04/19, till the outcome of this Original Application, in the interest of justice.

(iii) Add interim relief in terms of above prayer clauses.”

(12) (i) Hold and declare that the departmental proceedings pending against the Applicant is barred by limitation, in view of Clause 2.10 of Departmental Enquiry Manual, 1991 and law laid down by the Hon'ble Apex Court;

(ii) Quash and set aside the departmental proceedings, bearing Departmental Enquiry Case No.04/19, pending at Respondent No.6 office, based on impugned charge sheet dated 26.11.2008 issued by the Respondent No.1, in the interest of justice;

(iii) Direct the Respondents to release regular pension, gratuity and all other consequential retiral benefits to the Applicant along with interest @ 10% till the date of actual payment, in the interest of justice;

(iv) Direct the Respondents to release his full salary and allowances during the period of his suspension;

5. The respondents have filed the reply. It is submitted that the applicant was arrested for the offence punishable under Sections 409, 420, 468, r/w 34 of the Indian Penal Code and Section 3 (2) (v) of the Scheduled Cast and Scheduled Tribe (Prevention of Atrocities) Act. It is submitted by the side of respondents that departmental enquiry is going on. It cannot be quashed and set aside.

6. During the course of submission the learned counsel for applicant has pointed out the Judgment in Special (Atrocity) Case No.09/2011, dated 19/07/2017 decided by the Additional Sessions Judge, Gadchiroli. The applicant came to be acquitted for the offence punishable under Sections 409, 420, 468 r/w 34 of the IPC and Section 3 (2) (v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act.

7. The learned counsel for applicant has pointed out the Judgment of the Hon'ble Bombay High Court, Bench at Nagpur in Writ Petition No.2628/2021. In this Judgment, the departmental enquiry was stayed because it was pending since last 11 years.

8. The applicant is facing departmental enquiry since 2008. The learned counsel for the applicant has relied on the Judgment of the Hon'ble Supreme Court in the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano.** (*cited supra*).

9. In the cited Judgment in the case of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano.** (*cited supra*), the Hon'ble Supreme Court has held that if the departmental enquiry is not completed within six months and outer limit is one year, then departmental enquiry is liable to be quashed and set aside. After the Judgment of **Prem Nath Bali Vs. Registrar, High Court of Delhi & Ano.** (*cited supra*), the Hon'ble Supreme Court in the case of **State of Madhya Pradesh & Ano. Vs. Akhilesh Jha & Ano.** (*cited supra*) has held that specific direction to decide the departmental enquiry is to be given.

10. The learned counsel for the applicant has pointed out the Judgment of the Hon'ble Supreme Court in the case of **State of Madhya Pradesh & Ano. Vs. Akhilesh Jha & Ano.** (*cited supra*.) In para-15 the Hon'ble Supreme Court has held as under –

“(15) The line of reasoning which weighed with the Tribunal is plainly erroneous. The Tribunal would have been justified in directing the expeditious conclusion of the enquiry, but instead, it proceeded to quash the enquiry in its entirety. This, in our view, was clearly impermissible. Every delay in conducting a disciplinary enquiry does not, ipso facto, lead to the enquiry being vitiated. Whether prejudice is caused to the officer who is being enquired into is a matter which has to be decided on the basis of the circumstances of each case. Prejudice must be demonstrated to have been caused and cannot be a matter of surmise. Apart from submitting that the first respondent was unable to proceed on deputation or to seek promotion, there is no basis on which it could be concluded that his right to defend himself stands prejudicially affected by a delay of two years in concluding the enquiry. The High Court, therefore, in our view, has clearly failed to properly exercise the jurisdiction vested in it by simply affirming the judgment of the Tribunal. The judgment of the Tribunal suffered from basic errors which go to the root of the matter and which have been ignored both by the Tribunal as well as by the High Court.”

11. The applicant is facing departmental enquiry from 2008. He is already acquitted by the Additional Sessions Judge, Gadchiroli for the same charges. The departmental enquiry is going on the same charges. Hence, in view of the Judgment of the Hon’ble Supreme Court in the case of ***State of Madhya Pradesh & Ano. Vs. Akhilesh Jha & Ano.*** (cited supra), the following order is passed –

ORDER

(i) The O.A. is allowed.

(ii) The respondents are directed to complete the departmental enquiry within a period of two months from the date of receipt of this order.

(iii) If the departmental enquiry is not decided within a stipulated time, then it shall automatically stands quashed.

(iv) No order as to costs.

Dated :- 13/02/2024.

(Justice M.G. Giratkar)
Vice Chairman.

*dnk.

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of P.A. : D.N. Kadam

Court Name : Court of Hon'ble Vice Chairman.

Judgment signed on : 13/02/2024.